

Bobby Jones Pro se  
Plaintiff

§

VS.

§

Case No: 1-11-CV-00850-LY-AWA

Markus A Green, Dr Ruby  
Mitchell, The Travis County  
District attorney, and the  
Executive Director of the Texas Board  
of Medical Examiners,  
Defendants

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Defendant, Markus A. Green's First Reply to the  
Defendant, Travis County District attorney's,  
Response in opposition to Green's motion to Dismiss

Comes Now, defendant, Markus A Green, appearing through  
pro se representation to file this his "Reply" to  
defendant, Travis County D.A.'s response in opposition,  
and in support would show this court the following:

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I.

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY M. Ch DEPUTY CLERK

The Substance of Defendant, Travis County D.A.'s,  
"Reply" amounts to a Motion to Amend:

A. Green's Reply to the Travis County D.A.'s  
Contentions enumerated as "1-5" in her  
"Response in Opposition" as follows:

"1" On November 14, 2011, the defendant, Lemberg, filed a "Reply" (in form), which amounted to a Motion to Amend (in substance) not compliant with Rule 15(a) of the F.R.C.P.

"2" Defendant Lemberg's "Reply" (in its form) may have met the superficial requisites of Local rule CV7(c), but the substance of her "Reply" included corrections, and addendums to her original Motion to Remand; in an effort to massage the kinks in her deficient Motion to Remand, in violation of, both Rule 15(a) F.R.C.P., and 28 U.S.C. § 1447(c).

"3" Contrary to defendant Lemberg's assertions in contention "3", Rule 15(a) is incontrovertibly applicable to this case, because Lemberg, by and through her corrections in her "I. argument"; see defendant's "Exhibit Y"; has indeed attempted to file an Amended Motion to Remand based upon different jurisdictional matters than <sup>these</sup> in her original Motion to Remand: note: Previously, her arguments of subject matter jurisdiction <sup>were</sup> based upon 28 U.S.C. § 1441, but in her "Reply" it was amended to argue against § 1443 as ~~her~~ the basis of her subject matter jurisdiction claim, therefore it is an amendment, not compliant with Rule 15(a) or 28 U.S.C. § 1447(c).

"4" Although, defendant Lemberg's Motion to Remand may have been filed within the 30 day time-limits of 28 U.S.C. § 1447(c), her Motion to Amend the Motion for Remand (disguised as a Reply) filed on November 14, 2011 (49 days after Green's notice of Removal was filed on September 26, 2011) does not satisfy the time limits of either Rule 15(a) of the F.R.C.P. or 28 U.S.C. § 1447(c).

"5" Here again, the defendant, Lemberg, has attempted <sup>October 20, 2011</sup> to amend her Motion to Remand filed on November 14, 2011 by asserting that she "adapts arguments she made in her motion to Remand and her Reply as if fully set out herein". This is simply another way of saying, if the court will not accept the deficient motion to Remand, or its time-barred, non-compliant-amendment, or the dates they were filed, please accept them today; this too is another attempt to amend her motion to Remand.

### Conclusion & Prayer

For the above reasons, this defendant, Markus A. Green respectfully asks for this court to deny/dismiss defendant Lemberg's Response in opposition as another attempt to correct/amend her deficient motion to Remand (disguised as a reply), and also Grant I/Keep any other relief to which he is entitled to, either in equity, or in law.

Dated:

December 6, 2011

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Respectfully Submitted

Martus A. Keen #1118715  
Neal Unit Facility I-221-B  
9055 Spur Rd 591  
Amarillo, Texas 79107

Certification

This is to certify that, because I have been on administrative lock-down and did not it was not completed until today December 6<sup>th</sup> 2011, I was not able to make commissary and purchase the legal tablets, envelopes, type writer ribbon or other supplies needed in order to make copies to send to opposing parties, and I only sent this handwritten copy (and kept one for myself) to the clerk of the court to be filed with the court on this 6<sup>th</sup> day of December 2011 by dropping it into the Prison Mail box.

Signed By Martus A. Keen #1118715 on  
this 6<sup>th</sup> day of December 2011

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Dec 6, 2011

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Dear Clerk:

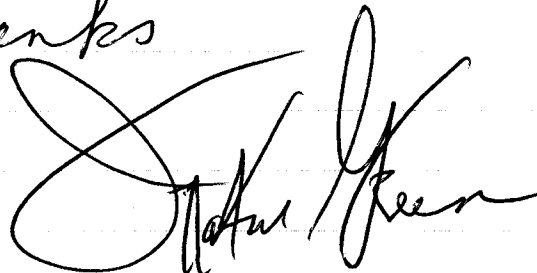
CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY \_\_\_\_\_ DEPUTY CLERK

Unfortunately, we have been on lock-down (for our semi-annual shake down) since November, and I just went to the mailroom (they allowed movement today) to get defendant Lemberg's "Response in opposition".

We have not made it to the store yet, so, I could not buy all the stamps, writing, or typing paper I needed to mail every party a copy.

Please forward each party a copy given my circumstances.

Thanks



Martins A. Green # 1118715-  
Meal unit IE-221-B  
9055 Spur Rd 591  
Amenville, Texas 79107

Legal  
documents

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Western District of Texas  
United States Courthouse Rm 130  
Austin, Texas 78701-9620

